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9
10 **BEFORE THE**
RESPIRATORY CARE BOARD
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. R-2053

13 MARGARET E. JONES
14 P.O. Box 6074
Crestline, California 92325

A C C U S A T I O N

15 Respiratory Care Practitioner License No. 2386

16 Respondent.

17
18 Complainant alleges:

19 PARTIES

20 1. Stephanie Nunez (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Respiratory Care Board of California (Board),
22 Department of Consumer Affairs.

23 2. On or about May 17, 1985, the Board issued Respiratory Care Practitioner
24 License Number 2386 to Margaret E. Jones (Respondent). This license was valid at all times
25 relevant to the charges brought herein and will expire on June 30, 2007, unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Board under the authority of the
28 following laws. All section references are to the Business and Professions Code (Code) unless

1 otherwise indicated.

2 4. Section 3710 of the Code states: “The Respiratory Care Board of
3 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
4 8.3, the Respiratory Care Practice Act].”

5 5. Section 3718 of the Code states: “The board shall issue, deny, suspend,
6 and revoke licenses to practice respiratory care as provided in this chapter.”

7 6. Section 3750 of the Code states:

8 “The board may order the denial, suspension or revocation of, or the imposition of
9 probationary conditions upon, a license issued under this chapter, for any of the following
10 causes:

11 “ . . .

12 “(d) Conviction of a crime that substantially relates to the qualifications,
13 functions, or duties of a respiratory care practitioner. The record of conviction or a
14 certified copy thereof shall be conclusive evidence of the conviction. . . .”

15 7. Section 3752 of the Code states:

16 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
17 made to a charge of any offense which substantially relates to the qualifications,
18 functions, or duties of a respiratory care practitioner is deemed to be a conviction within
19 the meaning of this article. The board shall order the license suspended or revoked, or
20 may decline to issue a license, when the time for appeal has elapsed, or the judgment of
21 conviction has been affirmed on appeal or when an order granting probation is made
22 suspending the imposition of sentence, irrespective of a subsequent order under Section
23 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to
24 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
25 accusation, information, or indictment.”

26 8. Section 490 of the Code states:

27 “A board may suspend or revoke a license on the ground that the licensee has
28 been convicted of a crime, if the crime is substantially related to the qualifications,

1 functions, or duties of the business or profession for which the license was issued. A
2 conviction within the meaning of this section means a plea or verdict of guilty or a
3 conviction following a plea of nolo contendere. Any action which a board is permitted to
4 take following the establishment of a conviction may be taken when the time for appeal
5 has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order
6 granting probation is made suspending the imposition of sentence, irrespective of a
7 subsequent order under the provisions of Section 1203.4 of the Penal Code.”

8 9. California Code of Regulations, Title 16, section 1399.370, states:

9 “For the purposes of denial, suspension, or revocation of a license, a crime or act
10 shall be considered to be substantially related to the qualifications, functions or duties of
11 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
12 perform the functions authorized by his or her license or in a manner inconsistent with the
13 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
14 those involving the following:

15 “ . . .

16 “(c) Conviction of a crime involving driving under the influence or reckless
17 driving while under the influence. . . .”

18 COST RECOVERY

19 10. Section 3753.5, subdivision (a) of the Code states:

20 "In any order issued in resolution of a disciplinary proceeding before the board,
21 the board or the administrative law judge may direct any practitioner or applicant found to
22 have committed a violation or violations of law to pay to the board a sum not to exceed
23 the costs of the investigation and prosecution of the case."

24 11. Section 3753.7 of the Code states:

25 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
26 include attorney general or other prosecuting attorney fees, expert witness fees, and other
27 administrative, filing, and service fees."

28 12. Section 3753.1, subdivision (a) of the Code states:

1 "An administrative disciplinary decision imposing terms of probation may
2 include, among other things, a requirement that the licensee-probationer pay the monetary
3 costs associated with monitoring the probation."
4

5 CAUSE FOR DISCIPLINE

6 (Conviction of a Crime)

7 13. Respondent is subject to disciplinary action under sections 3750,
8 subdivision (d), 3752 and 490 of the Code, and California Code of Regulations, Title 16, section
9 1399.370, subdivision (c), in that she was convicted of a crime substantially related to the
10 qualifications, functions or duties of a respiratory care practitioner. The circumstances are as
11 follows:

12 A. On or about April 19, 2006, a California Highway Patrol Officer
13 observed that Respondent was unable to maintain control of her vehicle and was driving
14 across the lines on the road. Upon contact with Respondent, the officer noticed there was
15 an odor of alcohol on her breath, her speech was slurred and her eyes were glassy. She
16 stated she was taking a milligram of prescription Valium every 2 hours. The results of
17 her preliminary alcohol screening test indicated her blood alcohol level was .10%.
18 Respondent failed the field sobriety tests. Respondent was arrested and charged with
19 driving under the influence of alcohol and driving with .08% or higher blood alcohol
20 level, violations of Vehicle Code section 23152, subdivisions (a) and (b), respectively.

21 B. On or about July 26, 2006, in a criminal proceeding entitled *People v.*
22 *Margaret Elizabeth Jones*, in San Bernardino County Superior Court, Case Number
23 TTP045243, Respondent was convicted by a plea of guilty to the crime of driving with
24 .08% or higher blood alcohol level, a violation of Vehicle Code section 23152,
25 subdivision (b). Respondent was placed on probation for three years. She was ordered to
26 pay fines of \$1,513.00, complete an approved first-offender alcohol program, serve one
27 day in county jail (with credit for one day), and her driving privilege was restricted for 3
28 months.

1 C. The crime of driving with .08% or higher blood alcohol level is
2 substantially related to the qualifications, functions, or duties of a respiratory care
3 practitioner.

4 DISCIPLINE CONSIDERATIONS

5 14. To determine the degree of discipline, if any, to be imposed on Respondent,
6 Complainant alleges that on or about March 27, 2006, Respondent was issued Citation No. C-06-
7 0192 by the Board for a conviction of a crime involving bodily injury or attempted bodily injury, a
8 violation of Code sections 3750, subdivision (d) and 3752.5. The Board also ordered respondent
9 to pay a fine in the amount of \$500.00. The Citation was based on the following. On or about
10 January 12, 2005, respondent was convicted of the crime of disturbing the peace following her
11 arrest for causing injury to her spouse.

12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein
14 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

- 15 1. Revoking or suspending Respiratory Care Practitioner License Number
16 2386 issued to Margaret E. Jones;
- 17 2. Ordering Margaret E. Jones to pay the Respiratory Care Board the costs of
18 the investigation and enforcement of this case, and if placed on probation, the costs of probation
19 monitoring;
- 20 3. Taking such other and further action as deemed necessary and proper.

21 DATED: January 30, 2007

22

23

24 Original signed by Liane Zimmerman for:
25 STEPHANIE NUNEZ
26 Executive Officer
27 Respiratory Care Board of California
28 Department of Consumer Affairs
State of California
Complainant